

In re Patent Application of
GRIFFIN
Serial No. 10/784,858
Filed: FEBRUARY 23, 2004

REMARKS

Applicant thanks the Examiner for the thorough examination of the present application. The claims are believed patentable for the reasons presented in detail below.

I. The Claimed Invention

Independent Claim 1, for example, is directed to a cellular communications system comprising a plurality of mobile cellular communications devices each associated with a respective user, and a cellular base station for wirelessly communicating with the plurality of mobile cellular communications devices. The cellular base station has a capacity associated therewith. The cellular communications system also comprises a central station for determining available capacity of the cellular base station based upon active wireless communications with the mobile cellular communications devices. The cellular communications system further comprises a subscription server for cooperating with the central station to provide non-real time subscription data to users on respective mobile cellular communications devices via the cellular base station when the determined available capacity thereof is greater than a threshold.

Independent Claim 10 is similar to Claim 1 but further recites that the subscription server cooperates with the central station to discontinue providing subscription data based upon at least one of the determined available capacity falling below the threshold, and an initiation of a telephone call corresponding to a respective mobile cellular communications device receiving not-real-time subscription data.

In re Patent Application of
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Independent Claim 17 is directed to the subscription server that includes at least one data storage device for storing non-real-time subscription data, and a controller for cooperating with a central station to provide non-real time subscription data to users on respective mobile cellular communications devices via at least one cellular base station when a determined available capacity thereof is greater than a threshold.

Independent Claim 23 is a method counterpart to the independent system Claim 1.

II. Claims 1-16 and 23-30 Are Patentable

The Examiner rejected independent Claims 1, 10, and 23 as unpatentable over the Minear et al. published application in view of the Forslow patent. The Examiner notes that the Minear et al. published application discloses a plurality of mobile cellular communications devices wirelessly communicating with a cellular base station. The Examiner correctly recognizes that Minear et al. fails to disclose a central station determining available capacity of the at least one cellular base station, and a subscription server for cooperating with the central station to provide non-real time subscription data to users on respective mobile cellular communications devices via the at least one cellular base station when the determined available capacity thereof is greater than a threshold.

The Examiner cites the Forslow patent in an attempt to supply the critical recognized deficiencies of the Minear et al. published application. Applicant respectfully submits that the Forslow patent discloses a communications system

In re Patent Application of
GRIFFIN
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using quality of service thresholds to select either a packet-switched bearer or a circuit switched bearer. For example, the circuit-switched bearer may be a Global System for Mobile (GSM) communication system fixed circuit dedicated to a user for a duration of a call. The packet-switched bearer may be a connectionless packet-switched data service with high bandwidth efficiency, such as the General Packet Radio Service (GPRS) incorporated into the existing circuit-switched GSM network. Moreover, as provided at col. 7, lines 37-42, Forsl w discloses:

By permitting individual application flows to individually select (1) quality of service parameters and (2) type of transfer mechanism (either circuit-switched or packet-switched bearer), the present invention provides better service for different types of applications.

However, the Forsl w patent fails to disclose determining available capacity of the at least one base station based upon active wireless communications with the mobile cellular communications devices as in the claimed invention. Accordingly, even a selective combination of the Minear et al. published application and the Forsl w patent fails to disclose a subscription server for cooperating with the central station to provide non-real time subscription data to users on respective mobile cellular communications devices via the cellular base station when the determined available capacity thereof is greater than a threshold. Instead, the Forsl w patent discloses that either a packet-switched bearer or a circuit switched bearer is selected based upon a quality of service mapped to individual application flows.

Independent Claims 1, 10, and 23 are patentable over the cited prior art because of the failure of even a selective

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GRIFFIN
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combination of references to produce the claimed invention. Their dependent claims, that recite yet further distinguishing features, are also patentable and need no further discussion herein.

II. Claims 17-22 Are Patentable

The Examiner rejected independent Claim 17 as unpatentable over the Minear et al. published application in view of the Partidge patent. The Examiner notes that the Minear et al. published application discloses a plurality of mobile cellular communications devices wirelessly communicating with a cellular base station. The Examiner correctly recognizes that Minear et al. fails to disclose a central station determining available capacity of the at least one cellular base station, and a subscription server including a data storage device and a controller for cooperating with the central station to provide non-real time subscription data to users on respective mobile cellular communications devices via the at least one cellular base station when the determined available capacity thereof is greater than a threshold.

The Examiner cites the Partridge, III patent in an attempt to supply the critical recognized deficiencies of the Minear et al. published application. The Partridge, III patent discloses a system providing communications path through a selected communications network in the event of a transmission failure on the initial, real-time, communications network. The selected network operates in a non-real-time manner and is configured such that communications may be scheduled for transfer, rather than requiring instantaneous access. The use of the selected network reduces both the

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loading of and access costs to the real-time network. A user who places an unanswered long-distance call may leave a message for the recipient, and that message is transferred to the recipient over the alternate network as time is available on the network, rather than over the primary long-distance voice network. A pager or cellular phone may be used to attempt to contact the intended recipient. However, the Partridge, III patent fails to disclose determining available capacity of the at least one base station based upon active wireless communications with the mobile cellular communications devices as in the claimed invention.

Even a selective combination of the Minear et al. published application and the Partridge, III patent fails to disclose the subscription server that includes at least one data storage device for storing non-real-time subscription data, and a controller connected to the at least one data storage device for cooperating with a central station to provide non-real time subscription data to users on respective mobile cellular communications devices via at least one cellular base station when a determined available capacity thereof is greater than a threshold as recited in independent Claim 17

Independent Claim 17 is patentable over the cited prior art because of the failure of even a selective combination of references to produce the claimed invention. Its dependent claims, that recite yet further distinguishing features, are also patentable and need no further discussion herein.

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IV. Conclusions

In view of the arguments presented above, it is submitted that all of the claims are patentable over the prior art. Accordingly, a Notice of Allowance is respectfully requested in due course. Should any minor informalities need to be addressed, the Examiner is encouraged to contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,



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CERTIFICATE OF FACSIMILE TRANSMISSION

I HEREBY CERTIFY that the foregoing correspondence has been forwarded via facsimile number 571-273-8300 to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 this 10th day of March, 2006.

